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Navigating Compliance in Canada's Financial Sector: Comparing PSP Regulations under FINTRAC and the Bank of Canada

As Canada's financial regulatory landscape continues to evolve, Payment Service Providers (PSPs), particularly those involved in retail payments, have found themselves at the center of this regulatory evolution. For a few years now, PSPs operating as part of the broader Money Services Business (MSB) group have been under the watchful eye of the Financial Transactions and Reports Analysis Centre of Canada (FINTRAC). However, with the introduction of the Retail Payment Activities Act (RPAA) and its associated Regulations, the Bank of Canada has stepped in with a new set of regulations specifically targeting retail payment services.

This shift has caused some confusion among MSBs, who may not be entirely clear on the distinct roles these two regulatory bodies play, or what the new regulations under the RPAA are trying to achieve.

This article aims to clarify the differences between PSPs regulated by FINTRAC and those regulated by the Bank of Canada, helping businesses understand which framework applies to them and what their compliance obligations entail.

FINTRAC vs. Bank of Canada: Their Roles in Regulating PSPs

FINTRAC, Canada's financial intelligence unit, has long been responsible for the supervision of MSBs, including PSPs, under the Proceeds of Crime (Money Laundering) and Terrorist Financing Act (PCMLTFA). The primary objective of this regulation is to prevent, detect and deter money laundering and terrorist financing activities. As part of their compliance obligations, PSPs must implement robust anti-money laundering (AML) and anti-terrorist financing (ATF) programs, maintain detailed records, and report certain transactions including suspicious activities to FINTRAC.

In contrast, the RPAA was designed to ensure that all entities engaging in retail payment services adhere to a standardized set of rules aimed at protecting consumers' funds. Specifically, the RPAA was designed to protect consumers by ensuring that their funds are secure, that risks are properly managed, and that they (the consumers) can access their money reliably, even if the PSP faces serious financial issues - thus maintaining the integrity of the financial system.

Understanding the Retail Payment Activities Act (RPAA)

Recognizing the growing complexity of the retail payment ecosystem and the potential risks to consumers, the Canadian government introduced the RPAA in June 2021.

The RPAA is enforced by the Bank of Canada* and its primary concern is the safety, efficiency, and reliability of retail payment services.

*The Bank of Canada is responsible for supervising PSPs under this Act.

It requires PSPs performing specific payment functions to register with the Bank of Canada. In addition, PSPs are required to establish, implement, and maintain a risk management and incident response framework, safeguard users' funds, keep certain records and reportable activities. These measures are part of the broader obligations under the RPAA to mitigate operational risk and ensure that end-user funds are safeguarded.

The Four-Step Test for RPAA Registration

To determine whether a PSP is subject to the RPAA and required to register with the Bank of Canada, entities should evaluate themselves against the following four criteria:

1. **PSP Functionality**: The entity performs one or more of the five payment functions identified in the RPAA as a service that is not incidental to any non-payment activity (see definition below).
2. **Scope of Service**: The payment function relates to an electronic funds transfer (EFT) in fiat currency or a prescribed unit.
3. **Geographical Coverage**: The entity operates (or intends to operate) in Canada or provides services to individuals or entities in Canada.
4. **Exclusions**: The business is not excluded from RPAA coverage, such as banks, provincially regulated trust companies, insurance companies, credit unions, etc.

PSP Functionality Defined

An individual or entity will be considered a PSP if they perform at least one of the following five payment functions:

1. Provision or maintenance of an account on behalf of end users.
2. Holding funds on behalf of end users.
3. Initiation of an EFT at the request of an end user.
4. Authorization of an EFT or transmission, reception, or facilitation of an EFT instruction.
5. Provision of clearing or settlement services.

Timelines and Penalties for Non-Compliance

For those entities that meet the above criteria, applications for registration with the Bank of Canada must be made between November 1, 2024 and November 15, 2024 (the "Registration Period"). The registration will include a one-time application fee of CAD$2,500 payable to the Bank of Canada.

Following the November 15, 2024 deadline to register, the Bank will take ten months to review all the applications for registration that have been submitted. During this period of time (transition period*), PSPs providing retail payment services can continue to provide services but only if they have submitted an application during that 15-day application window.

Any PSP that has not applied for registration by November 15, 2024, and starts or continues to operate as one will be in violation of the RPAA. Penalties will include fines, suspension of registration, or other regulatory actions from the Bank of Canada.

Individuals or entities who wish to start operating as a PSP after the 15-day application window but have not applied within that time will still be able to apply to register with the Bank but will be subject to potential delays in commencing their retail payment activities as registration application must be submitted at least 60 days before commencement of retail payment activities.

On September 8, 2025, the Bank will publish the list of registration decisions including the list of PSPs that were refused registration. PSPs that were refused registration will be notified before the list of refusals has been published.

[*] The transition period will begin on November 1, 2024, and continues to September 7, 2025.

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Are All FINTRAC MSBs Considered PSPs Under the Bank of Canada?

One of the lingering questions many clients have been asking is whether all MSBs automatically fall under the category of PSPs regulated by the Bank of Canada. The short answer is no, not all MSBs are PSPs under the RPAA.

The RPAA specifically targets entities that perform one or more of the five defined payment functions—such as holding funds, initiating or authorizing electronic funds transfers (EFTs), and providing clearing or settlement services. Many traditional MSBs, such as those involved solely in currency exchange or remittance without holding or managing funds, may not be required to register under the RPAA unless they engage in retail payment activities as defined by the Act.

Conclusion

The introduction of the RPAA marks a significant development in the regulation of Payment Service Providers in Canada. As businesses navigate this evolving landscape, understanding whether they are regulated by FINTRAC, the Bank of Canada, or both is crucial for maintaining compliance and safeguarding operations. Given the complexity of these requirements, PSPs are encouraged to seek professional guidance to ensure they meet their regulatory obligations under both frameworks.

How We can Help

If you're uncertain about your RPAA obligations or need assistance navigating these regulations and other AML compliance requirements, please **visit www.candg.ca** or reach out to any of the following Compliance advisors:

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